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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

ITL.0651US (P12392)

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on May 25, 2006

Signature

Typed or printed name

Cynthia L. Hayden

Application Number

09/923,581

Filed

August 6, 2001

First Named Inventor

Paul McAlinden

Art Unit

2155

Examiner

Asad M. Nawaz

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

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I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒ attorney or agent of record.Registration number 28,994☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

Timothy N. Trop

Typed or printed name

(713) 468-8880

Telephone number

May 25, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

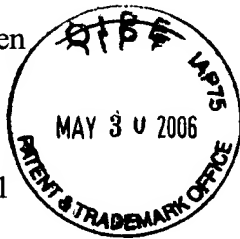
In re Applicant:

Paul McAlinden

Serial No.: 09/923,581

Filed: August 6, 2001

For: Discovering Client
Capabilities



Art Unit: 2155

Examiner: Asad M. Nawaz

Docket: ITL.0651US
P12392

Assignee: Intel Corporation

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Pre-appeal review is sought because Mukherjee does not teach determining characteristics of a client in order to select a probe routine from among at least two available probe routines to transfer from a server to a client. The idea here is that you use a characteristic of the client to select the probe routine, which then analyzes characteristics of the client to provide information back to the server about client capabilities.

Cited in support of the assertion that Mukherjee teaches such a thing are Mukherjee's paragraphs 47-52. Mukherjee does not have anything to do with probe routines or accessing client capabilities to select from among probe routines. This becomes unavoidably apparent upon reviewing the cited reference's paragraphs 47-52.

Paragraph 47 talks about dynamically changing the state of the user as evidenced by the user's interaction with devices. This is not referring to client capabilities and it is not referring to

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selection of probe routines based on client capabilities. Instead, it is talking about the state of the user as evidenced by the user's interaction with devices. Nothing is pertinent in paragraph 47.

Paragraph 48 talks about presence information aggregated and disseminated among multiple devices. This refers to the real time state of a person so that presence applications can function.

Paragraph 49 discusses exemplary presence applications such as find friend.

Paragraph 50 talks about how presence information may be used to determine whether the user is available to take a call.

Paragraph 51 talks about location based screening.

Paragraph 52 talks about a block diagram for dynamic presence information management.

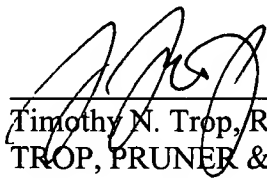
It is respectfully submitted that there is no way to find anything about selecting a probe routine from among multiple probe routines or probe routines in general in the cited reference. There is no concept of probing a client in any case.

It can be conservatively stated that the reference has no bearing whatsoever on the claimed invention. A review of the material cited in support in the advisory action shows that while it recites things that Mukherjee allegedly teaches, it is impossible to see how these have any bearing on the limitations of the pending claims.

In other words, the office action admits that the element described above is absent in Andreakis and nothing in the advisory action shows any reason to believe that it exists within Mukherjee. As a result, a *prima facie* rejection is not made out and reconsideration would be appropriate.

Respectfully submitted,

Date: May 25, 2006



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